

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of N.P.S.SF. Debt Co.,
S.à.r.l., pursuant to 28 U.S.C. § 1782 to Conduct
Discovery for Use in Foreign Proceedings,

Misc. Case No. M-_____

Petitioner.

**EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782
TO CONDUCT DISCOVERY FOR USE IN FOREIGN PROCEEDINGS**

Petitioner, N.P.S.SF. Debt Co., S.à.r.l., (“Petitioner” or “Njord Lux”), respectfully asks this Court to grant the Order submitted with this Application, which gives Petitioner leave, pursuant to 28 U.S.C. § 1782 and Rules 26 and 45 of the Federal Rules of Civil Procedure, to serve, respectively, upon each of Standard Chartered Bank, Citigroup d/b/a Citibank, The Bank of New York Mellon Corporation, Bank of America, N.A., JPMorgan Chase Bank, N.A., Deutsche Bank AG, Deutsche Bank Trust Company Americas, HSBC Bank, Societe Generale, UniCredit Bank AG, Credit Suisse Bank N.A., UBS Group AG, Wells Fargo Bank, N.A., The Clearing House Payments Company L.L.C., Bank of China, BNP Paribas USA, Commerzbank AG, Mashreq Bank PSC, and Habib American Bank (the “Subpoenaed Entities”) the subpoenas attached as “**Exhibits A-S**” to this Application, and in support thereof states as follows.

The requested relief is for the purposes of obtaining necessary discovery in aid of a contemplated foreign proceeding. Petitioner is an entity within Njord Partners LLP (“Njord Partners”). Njord Partners, a Limited Liability Partnership regulated by the UK Financial Conduct Authority, acts as investment manager and advisor to a network of entities through which it invests funds and engages in financing and investment activities on behalf of institutional investors. These include: Guernsey-registered entity Njord Partners SMA-SEAL LP (“Njord LP”) and its subsidiaries and a group of Luxembourg-registered entities

including Njord Partners Special Situations Fund II SLP (SCSP) (“Njord Lux II”) and N.P.S.SF Debt Co S.à.r.l (“Njord Lux”) its subsidiary, collectively referred to herein as the “Njord Companies.”

Muhammad Tahir Lakhani (“Tahir”) purports to run a ship recycling business through North Star Maritime Holdings Limited (“North Star”), which is a parent company to Astir Maritime Limited (“Astir”), which in turn owns 100% of four Astir subsidiary companies (“Astir Subsidiaries” and, collectively with Astir and North Star, the “Astir Group”). Muhammad Ali Lakhani (“Ali”) and Muhammad Hasan Lakhani, Tahir’s two sons, are the beneficial owners of North Star, each holding 50% of the share capital.

In 2017, the Njord Companies decided to invest in Tahir’s project whereby unseaworthy ships would be purchased and then scrapped. The Njord Companies entered into three agreements with Astir and North Star, among others, (the “Facility Agreements”) which detailed the terms by which the Njord Companies would lend the Astir Group funds to purchase vessels. Through these Facility Agreements, the Njord Companies invested with the Astir Group \$45 million to facilitate the Astir Group’s purchase of unseaworthy vessels to be sold to the scrapyard. The Njord Companies entered into these Facility Agreements in reliance on what now appear to be a series of false and deceitful statements made to the Njord Companies by Ali and Tahir concerning Tahir’s net worth, which statement Tahir has now disavowed.

Over the course of nearly three years, from 2017-2020, the Astir Group identified 23 vessels to purchase and sell to the scrapyard and the Njord Companies permitted the Astir Group to withdraw a total of \$45 million. The Astir Group was then expected to purchase a vessel, sell the vessel to a scrapyard, and then deposit the profits and principal into the account within five days of delivery of the vessel to the scrapyard. In reality, the Astir Group did not purchase and sell

the vessels, but rotated the funds lent to them by the Njord Companies into and out of the bank accounts as part of a scheme. As a result of the Astir Group's, Tahir's and Ali's scheme, the Njord Companies were defrauded of \$36,638,599.51.

The Njord Companies have been engaged in seeking to recover the funds of which they were defrauded through legal proceedings. On July 3, 2020, the High Court of Justice Business and Property Courts of England and Wales entered judgment against Tahir as the personal guarantor on the claim brought by the Trustee, acting on behalf of the Njord Companies, in the amount of US\$47,297,812.73 for failure to repay the principal amounts invested and obligations of the Astir Group.

The Njord Companies have been engaged in tracing Tahir's, Ali's, and the Astir Group's assets around the world so that they may bring enforcement proceedings and recover those assets. As a result, they have learned that Tahir and Ali are continuing to transact business as a buyer or broker of vessels for recycling and may be doing so with the funds stolen from the Njord Companies. Further inquiry into Tahir's, Ali's and the Astir Group's assets indicates that Tahir may be using a network of offshore entities that transact business in U.S. dollars to arrange for the buying and selling of these vessels. As a result of this investigation, the Njord Companies are contemplating initiating and/or participating in pending proceedings in the United Arab Emirates, India, and Pakistan with respect to vessels connected to Tahir, and in Germany, St. Kitts & Nevis, and the Marshall Islands where certain of the Astir Group are either located in, or believed to have business and assets.

Based upon the Declaration of Arvid Trolle and the accompanying Memorandum of Law to this Application, the Court should grant this Application *ex parte*.

A. The Documents Sought

Petitioner seeks financial records of transactions relating to Ali, Tahir, the Astir Group, and their agents, and/or their traceable proceeds. As the fraud against the Njord Companies was perpetrated by Tahir, Ali and the Astir Group by means of transactions in U.S. dollars, and as vessel recycling transactions in general are almost always conducted in U.S. dollars, Petitioner seeks documentary discovery of correspondent banking records, comprising detailed SWIFT and other transaction data for transactions made to or from the Astir Group's, Tahir's, or Ali's own accounts and known or suspected accounts held by relevant recipients of their funds (or their traceable proceeds).

B. Petitioner's Application Should Be Granted

Petitioner meets all the statutory criteria for the issuance of an order allowing the requested discovery under 28 U.S.C. § 1782. The Subpoenaed Entities are all located in this District. The Petitioner seeks to use the documents it requests from the Subpoenaed Entities in a contemplated foreign proceeding. Petitioner seeks this discovery to support and provide evidence for its contemplated claims against Ali, Tahir, the Astir Group, and their related agents and entities, to pursue its claims of enforcement and recovery of assets in the jurisdictions in which Ali, Tahir, and the Astir Group have sought to conceal the funds stolen from the Njord Companies as part of the fraudulent scheme. Moreover, as set forth in its Memorandum of Law filed concurrently herewith, all the discretionary factors that this Court may consider likewise favor granting this *ex parte* application. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004) (describing discretionary factors).

Accordingly, Petitioner respectfully requests that the Court (a) grant the Application for Order to Conduct Discovery in a Foreign Proceeding *Ex Parte*; (b) enter the Proposed Order; (c) grant Petitioner leave, pursuant to 28 U.S.C. § 1782, to serve the subpoenas submitted with this Application as Exhibits A-S; and (d) grant any and all other further relief to Petitioner as deemed just and proper.

Respectfully submitted this 9th day of August, 2022.

BAKER & HOSTETLER LLP

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